IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 30TH JULY 2007 / 8TH SRAVANA 1929

Bail Appl..No. 4595 of 2007()

(CRIME NO. 65/2007 of PAYYAVOOR POLICE STATION)

PETITIONER/ACCUSED

FRANCIS @ KUTTAPPAN, AGED 52 YEARS,
S/O MATHAI, PUTHENPURAYIL HOUSE,
PAYYAVOOR AMSOM, THALIPARAMBA TALUK, KANNUR.

BY ADV. SRI.SUNIL NAIR PALAKKAT
SRI.K.N.ABHILASH

RESPONDENTS: COMPLAINANT & STATE

THE STATE OF KERALA,REP. BY THE
SUB-INSPECTOR OF POLICE, PAYYAVOOR POLICE STATION,
THROUGH PUBLIC PROSECUTOR OF HONOURABLE KERALA
HIGH COURT, ERNAKULAM.

BY ADV. SRI. JAI GEORGE, PUBLIC PROSECUTOR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.4595 of 2007

Dated this the 30th day of July, 2007

ORDER

Application for anticipatory bail. About an incident which took place on 23.06.07 at about 9.30 a.m allegations and counter allegations are traded by the petitioner herein on the one side and the defacto complainant and his wife on the other. The petitioner had suffered injuries and that crime at his instance is reckoned as the main case. The crime against the petitioner was initially registered only under Section 324 I.P.C. Later, after questioning the wife of the defacto complainant, an allegation under Section 376 r/w 511 I.P.C has been raised. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that allegations of rape are being raised belatedly only with the intent of vexing and harassing the petitioner and also with an intention to save the skin of the defacto complainant and his wife for allegations raised in the case registered against them. It is, in these circumstances, prayed that directions under Section 438 Cr.P.C may be issued in favour of the petitioner. Except the belated allegation under Section 376 r/w 511 I.P.C, all other offences are bailable, submits the learned counsel for the petitioner and the learned Public Prosecutor.

2. Having considered all the relevant inputs, I am satisfied that this is a fit case where the discretion under Section 438 Cr.P.C can be invoked in favour of the petitioner. I have already indicated the facts in brief earlier. It is not necessary to embark on a detailed discussion on the acceptability of the allegations or the credibility of the data collected.

3. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 06.08.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 1 p.m on 07.08.2007 and 08.08.2007 and thereafter as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 06.08.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 06.08.07.

(R.BASANT, JUDGE)

rtr/-